

TALLAHASSEE, FLA.
DEMOCRAT

E - 29,035
S - 29,006
JUN 9 1969

Fights Nosy Bureaucrats

Sen. Sam Ervin, 'Champion' For Privacy

By JAMES K. BATTEN
Democrat-Miami Herald Service

WASHINGTON — Back during World War II, when Sen. Sam J. Ervin Jr. was a superior court judge in North Carolina, he patriotically agreed to arbitrate some labor disputes in defense plants.

"Then one day," the 72-year-old gray-haired senator recalls with a chuckle, "I got a great big brown envelope in the mail. There were 40 or 50 questions I had to answer.

"They also asked me to sign a pledge that I'd abide by the Hatch Act and take an oath that I didn't belong to any organization advocating the violent overthrow of the government."

Those who have followed Sam Ervin's Washington crusades against Big Brother in recent years can guess the end to the story: the government was soon out looking for another labor arbitrator.

It wasn't that this rustic mountain lawyer was scheming to violate the Hatch Act or overthrow the government. He simply was — and still is — violently annoyed by nosy questionnaires and the inquisitive bureaucrats who dream them up.

Today after 15 years in the Senate, Ervin is emerging as one of the nation's best-known champions of the individual's right to be let alone — which the senator sometimes suspects may be the most precious right of all.

A few years ago, the North Carolina Democrat broke into the national spotlight only as a long-winded opponent of civil rights bills. But that image has begun to change.

In a single week not long ago, his work as the chairman of the privacy-defending Senate Constitutional Rights Subcommittee was discussed in such diverse publications as

the Wall Street Journal, Playboy, Saga and a couple of law reviews.

Ervin has raised Cain on behalf of all sorts of people. Among others:

—Young girls, applying for secretarial jobs at the state department, who were grilled in details about their sex life.

—Federal employees whose superiors suggested that they involve themselves in worthwhile community projects during off-duty hours.

—Government consultants who resent being asked to swear that they never contributed to any organizations on the attorney general's list of subversive groups.

—Garden-variety citizens who are pried with endless government questionnaires about everything under the sun.

More than once, Ervin's indignant crusades have sent him crashing into some of Washington's most formidable bureaucratic dragons — like the central intelligence agency.

Back in 1967, the Senate judiciary committee was considering Ervin's sweeping bill to protect the privacy of government employees. Sen. Birch Bayh, D-Ind., was worried about the bill's ban on lie-detector and psychological tests.

The CIA should be exempted from that ban, Bayh argued in one executive session, because the spy agency needed such tests to unearth homosexuals who might be security risks. "The Russians," he warned solemnly, "find these homosexuals in the CIA and blackmail them."

Ervin was unimpressed. "How do the Russians find they're homosexuals?" he inquired of Bayh. "Do they give them lie-detector tests?"

Bayh's amendment to



Sen. Sam Ervin
... Protects rights

exempt the CIA was swiftly voted down.

As Ervin's reputation has grown, his constitutional rights subcommittee has become a magnet for people from all walks of life who are unhappy about invasions of their privacy by big government.

"For the last three months," a subcommittee staff member said Friday, "the mail has been extremely heavy. We've had as many as 30 to 40 letters a day. And last week, we had 10 or 12 people come in to discuss their complaints."

The gripes are as varied as the abuses. But many complaints reaching Ervin in recent months have dealt with his old pet peeve — government questionnaires.

Not long ago, an outraged widow in Statesville, N.C., wrote to complain about the 1970 census. She was incensed that she might be asked how she enters her living quarters — by an outside door, common hall, or what.

"I love America and I deeply resent any criticism of my country," she wrote, "but for the first time in my life (I am over 60 years old) I have no intention of answering such stupid questions..."

The Tar Heel widow added grimly that she "if need be will suffer the consequences."

Prompted by hundreds of

such complaints, Ervin — along with others in Congress — has introduced a bill to limit the census bureau's power to compel answers to questions that go beyond basic population data.

The lengthening list of census questions, Ervin said the other day, "is due to our increasing reliance on the economist, the sociologist and all the other experts who gain a momentary hold on the programs of our bureaucracy."

He added, "in their unrestrained zeal to study man and his environment, they must know everything there is to know about him."

The indignation that runs through many of the complaints to Ervin is easily matched by the senator's own reservoir of indignation, which seems to be bottomless.

"He really gets excited about these things," agreed an aide.

"He'll sit down and start reading some government questionnaire and his eyebrows will start going up and down. 'Do you share your toilet with somebody else?' the questionnaire will ask, and then Ervin, all excited, will say, 'what business is that of the government's?'"

Another pet peeve of Ervin's is the true-false questions included in personality tests which have been widely used in federal agencies.

Some of the most hilarious scenes on capitol hill in recent memory have come when white-haired Sam Ervin, with great gusto, would read for his colleagues a sampling of such questions:

"I am very seldom troubled by constipation. . . . My sex life is satisfactory. . . . I believe in the second coming of Christ. . . . I have used alcohol excessively. . . . Many of my dreams are about sex matters."

of Ervin's privacy crusades is difficult to measure. With his criticism and ridicule, he often has goaded the Civil Service Commission and federal agencies into revising some of their more questionable practices.

But his major thrust — a broad-gauged bill to protect the rights of federal employees — has been stymied. The Senate has passed the Ervin bill overwhelmingly, only to see it bog down in the House of Representatives.

Ironically, the bill landed in a House subcommittee chaired by a fellow North Carolinian, Rep. David N. Henderson, a Democrat.

Henderson, reflecting the grave misgivings of the Civil Service Commission about the Ervin bill, helped keep it bottled up in the 90th Congress.

In some ways, Sam Ervin is an unlikely guardian of privacy and the broader cause of civil liberties.

He is a Southerner and Southern senators have no record of special sensitivity on this subject. And Ervin's own record of dogged opposition to civil rights legislation has made his pro-privacy efforts surprising to many people in Washington.

Ervin's friends offer a variety of explanations for the senator's instinctive — and at times, emotional — devotion to the cause of privacy.

Some of them point to the fact that Ervin grew up in the mountains of North Carolina, where the tradition of minding one's own business is very strong.

A boyhood friend, Frank C. Patton Sr., now a 73-year-old lawyer in Ervin's hometown of Morganton, believes that the senator reflects the mountain man's deeply rooted "don't-tread-on-me" outlook in life.

"That's a quality among mountain people," said Patton, "and he was born and raised here in these hills."

One of Ervin's Senate aides puts it another way:

"The Senator believes in cause of privacy because he likes it himself so much. He relishes his and his family's privacy. He never asks anybody over to his (Washington) apartment. If you set foot inside that door, you've set some kind of record."

In most ways, Ervin is rigidly consistent in his defense of privacy.

thing for senators and federal judges. He is resisting, for example, the current hue and cry for financial disclosure by such officials as an unwarranted invasion of privacy.

But even the most ardent admirers of his privacy campaigns agree that Ervin has a mushy record on one of the most sensitive issues of all — wiretapping.

"He's vacillated like hell on that particular subject," admitted one of Ervin's associates.

Several years ago, Ervin was an enthusiastic supporter of far-reaching anti-wiretapping legislation then being debated in Congress.

But by last year, when the Omnibus Crime Act was rolling toward enactment with a permissive wiretapping section bitterly opposed by most civil libertarians, Ervin went along.

He even voted against six amendments offered on the Senate floor to tighten control of wiretapping and protect the privacy of innocent citizens.

Ervin obviously was motivated at least partly by his personal alarm at rising crime rates and his determination to give law enforcement the necessary tools to strike back.

"It does represent a change of direction for him," agreed one of the senator's aides. "He wrestled with it before going along with that wiretapping title. He really had difficulty with it."

Lawrence Speiser, the Washington representative of the American Civil Liberties Union and an ardent Ervin admirer in many respects, is sharply critical of the Senator's wiretapping stand.

"He has shown a lack of understanding of the dangers of wiretapping," Speiser said.

But Speiser, like others interested in the field of privacy, agrees that Ervin's contributions have been very substantial.

"He's a very complex guy," Speiser added. "He does pick some things in which he stands very tight and tough against what would be the popular side."